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| APPLICATION NO.                 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/735,451                      | 12/12/2003  | Randall Fuerst       | JB0602              | 2007             |
| 27225 7590 09/05/2008           |             |                      |                     |                  |
| JAMES F KIRK                    |             |                      |                     |                  |
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| HUNTINGTON BEACH, CA 92649-2134 |             |                      |                     |                  |
| EXAMINER                        |             |                      |                     |                  |
| VARGOT, MATHEU'D                |             |                      |                     |                  |
| ART UNIT                        |             | PAPER NUMBER         |                     |                  |
| 1791                            |             |                      |                     |                  |
| MAIL DATE                       |             | DELIVERY MODE        |                     |                  |
| 09/05/2008                      |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/735,451

**Applicant(s)**

FUERST ET AL.

**Examiner**

Mathieu D. Vargot

**Art Unit**

1791

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-9, 11 and 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted in claim 1, step a, line 1, the term "alternating" has been deleted. However, claims 8 and 9, which further define the step, include the term "alternating" and the term should properly be put back into claim 1, step a to avoid confusion. In independent claims 1, 13 and 14, in step i, it should be clearly set forth that the electrospun mat of polymer fibers formed is in fact the contact lens. Also, in claims 15 and 16, it is unclear exactly what is being agitated (ie, whipped) in the "charge induced whipping" and this needs to be clarified.

Concerning more formal matters, the following lack antecedent basis: claim 1, step h, line 3, "the desired pattern"; claim 13, step f, "the Taylor cone"; claim 13, step h, lines 3-4, "the desired pattern"; claim 14, step e, "the needle tip"; claim 14, step f, line 2, "the electrospinning cone"; claim 14, step h, line 3, "the desired pattern"; claim 16, line 3, "the Taylor cone". Also, periods are missing at the end of claims 2-4 and these need to be inserted. In claims 6, 7 and 11, line 1, the period should be deleted after the step letter designated; the same for claims 15 and 16, line 4. In claim 5, it is not clear why the terms "Micro Electro Mechanical Structure" are capitalized and these should preferably be in lower case. Finally, in claims 8 and 9, line 2, the quotes surrounding the step letter should be deleted.

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's comments concerning the art rejection are persuasive, particularly since the applied art does not teach the instant motion of the target with respect to the needle as set forth in step h of the independent claims. However, there remain a number of 112 issues with respect to the claims that need to be addressed.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
September 2, 2008

/Mathieu D. Vargot/  
Primary Examiner, Art Unit 1791